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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/426,954	10/26/1999	EUGENE AUGUST FUSZ	10209-00007	2561

7590 02/25/2003

JOHN S BEULICK
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST LOUIS, MO 631022740

EXAMINER

BOYCE, ANDRE D

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 02/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/426,954

Applicant(s)

FUSZ, EUGENE AUGUST

Examiner

Andre Boyce

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-17,19-26 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-17,19-26 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). 10.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submissions filed on September 16, 2002 and January 22, 2003 have been entered.
2. Claims 2 and 27 have been cancelled. Claims 1, 3-6, 8, 9, 13-16, 22, and 24 have been amended. Claims 1, 3-17, 19-26, and 28 are pending.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 4, 6, and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "the password" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "the correct multi-character identifier" in line 3 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 14 recites the limitations "the advertisers" and "the first information set" in lines 2-3 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3-17, 19-26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldhaber et al (USPN 5,855,008), in view of Kepecs (USPN 6,009,411).

As per claim 1, Goldhaber et al disclose a method for prompting an individual to create an anonymous data profile for the individual (see column 6, lines 40-44), comprising the steps of providing the individual with access to a database (consumer database 120, see column 12, lines 21-24), requesting anonymous profile information, about the individual be entered into the database (see column 12, lines 28-30), and compensating the individual for either or both of entry of the anonymous profile information and feedback provided in response to marketing data

Art Unit: 3623

(see column 10, lines 46-53). Goldhaber et al does not disclose maintaining the anonymity of the individual through an inability to accept contact information in the profile. Kepecs discloses a method of distributing and redeeming promotions wherein no consumer identification is maintained (see column 2, lines 50-52). The lowest level of identification in Kepecs is simply a unique customer key with no other identification data (see column 6, lines 51-53) , wherein the consumer is compensated via a discount or credit (see column 5, lines 41-45), identified via the key (see column 5, lines 55-57). Both Goldhaber and Kepecs are concerned with an effective method of marketing products to potential consumers, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include maintaining the anonymity of the individual through an inability to accept contact information in the profile in the Goldhaber et al method, as seen in Kepecs, thus providing complete privacy for the individual, thereby increasing the number of consumers that would otherwise be reluctant to use a method which requires identifying information.

As per claim 3, Goldhaber et al disclose asking the individual a plurality of questions (profile questionnaire, see column 13, lines 32-35).

As per claim 4, Goldhaber et al disclose communicating with the individual via the password (see column 16, lines 58-63).

As per claim 5, Goldhaber et al disclose asking the individual for a multi-character identifier (handle, see column 36, lines 15-19).

Art Unit: 3623

As per claim 6, Goldhaber et al disclose asking the individual at least one personal question, wherein the individual is permitted to enter the database only if a correct multi-character identifier (handle, see column 13, lines 15-19) is given and if at least one of the questions is answered correctly (password, see column 13, lines 22-26).

As per claim 7, Goldhaber et al disclose contact information including at least one of a name, a social security number, a telephone number, and an address (see column 13, lines 1-13).

As per claim 8, Goldhaber et al disclose a method for providing advertising feedback (see column 10, lines 39-42), comprising the steps of administering to each individual a password, absent any contact information for the individual, (see column 13, line 22), utilizing the password to access a database (consumer database 120), entering profile information for the individual in the database (see column 12, lines 39-42), storing the entered profile information in the database (see column 13, lines 28-30), presenting at least one of the individuals with a set of data, receiving feedback regarding the set of data (see column 16, lines 16-19), and compensating the at least one individual for the feedback (see column 16, lines 19-23). Goldhaber does not disclose maintaining the anonymity of the individual through an inability to accept contact information in the profile. Kepecs discloses a method of distributing and redeeming promotions wherein no consumer identification is maintained (see column 2, lines 50-52). The lowest level of identification in Kepecs is simply a unique customer key with no other identification data (see

Art Unit: 3623

column 6, lines 51-53) , wherein the consumer is compensated via a discount or credit (see column 5, lines 41-45), identified via the key (see column 5, lines 55-57). Both Goldhaber and Kepecs are concerned with an effective method of marketing products to potential consumers, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include maintaining the anonymity of the individual through an inability to accept contact information in the profile in the Goldhaber et al method, as seen in Kepecs, thus providing complete privacy for the individual, thereby increasing the number of consumers that would otherwise be reluctant to use a method which requires identifying information.

As per claim 9, Goldhaber et al disclose presenting each individual with a second set of information generated by an advertiser (see column 10, lines 44-46).

As per claim 10, Goldhaber et al disclose communicating the feedback in aggregate form (through the attention broker in the Goldhaber et al method) to the advertisers (see column 17, lines 4-9).

As per claim 11, Goldhaber et al disclose allowing each individual to choose a multi-character identifier (see column 13, lines 24-26).

As per claim 12, Goldhaber et al disclose asking the individual a plurality of questions (profile questionnaire, see column 13, lines 32-35).

As per claim 13, Goldhaber et al disclose paying the individuals for their feedback with at least one of digital cash, credits, or coupons (see column 10, lines 46-53).

As per claim 14, Goldhaber et al disclose separating the profile information from the set of data and ensuring the advertisers do not obtain the first set information (see column 14, lines 18-20).

As per claim 15, Goldhaber et al disclose presenting each individual with data that is specific to the profile information (consumer profile) provided by the at least one individual (see column 14, lines 30-34).

As per claim 16, Goldhaber et al disclose an apparatus for conveying and storing information relating to anonymous data profiles (see column 6, lines 40-44), comprising a first data repository, a first computer linked to the first data repository (see column 12, lines 39-42), configured to communicate with the first data repository via a password (see column 13, line 22), provide a first set of information about the individual to the first data repository (see column 13, lines 28-30), and a processor programmed to communicate with the first data repository and the first computer (software agents 101, see column 9, lines 53-56). Goldhaber et al disclose a second data repository, a second set of computers linked to the second data repository, the second set of computers configured to provide a plurality of second sets of information to the second data repository (servers 106, see column 9, lines 62-67), the first data repository separate from the second data repository, the processor (software agents 110) further programmed to communicate with the second data repository and the second set of computers (see column 9, lines 58-61), the processor also programmed to receive and store feedback regarding the second sets of information, and provide compensation data to the first data

repository and linked to the first information sets (feedback stored by servers 106 and compensation routed through consumer computer 104). Goldhaber et al do not disclose the first set of information lacking information relating to a name, an address, a telephone number, and a social security number of the individual, through an inability to accept such information into the first computer. Kepecs discloses distributing and redeeming promotions wherein no consumer identification is maintained (see column 2, lines 50-52). The lowest level of identification in Kepecs is simply a unique customer key with no other identification data (see column 6, lines 51-53), wherein the consumer is compensated via a discount or credit (see column 5, lines 41-45), identified via the key (see column 5, lines 55-57). Both Goldhaber and Kepecs are concerned with an effective method of marketing products to potential consumers, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include maintaining the anonymity of the individual through an inability to accept contact information in the profile in the Goldhaber et al method, as seen in Kepecs, thus providing complete privacy for the individual, thereby increasing the number of consumers that would otherwise be reluctant to use a method which requires identifying information.

As per claim 17, Goldhaber et al disclose the processor (software agents 101) further programmed to store the first set of information from the first computer, if the correct password is provided by the first computer (see column 16, lines 58-63).

As per claim 19, Goldhaber et al disclose the second set of computers (servers 106) not being able to access the first data repository (see column 14, lines 37-39).

Art Unit: 3623

As per claim 20, Goldhaber et al disclose the processor (software agents 110) further programmed to screen the second set of information and grant access to the screened second set of information by the first computer (consumer computer 104) if the screened second set of information includes at least one attribute compatible with at least one attribute in the first set of information (see column 14, lines 53-56).

As per claim 21, Goldhaber et al disclose the first computer (consumer computer 104) being configured to access the screened second set of information stored in the first data repository (see column 15, lines 34-37).

As per claim 22, Goldhaber et al disclose a system for generating advertising feedback from anonymous consumers via an electronic data communications network (overall environment, see column 9, lines 33-36), comprising a control unit for coupling to the communications network (consumer computers with software agents, see column 9, lines 53-56), a server (servers/attention brokers 106, see column 9, lines 37-38 and 62-63) coupled to the control unit comprising a consumer generated database for storing profile information related to consumers, a marketer database for storing information to be reviewed by consumers, and a processor programmed (software agents 110, see column 9, lines 53-61) to receive consumer generated data sets controlled by the consumers, each data set including a set of individual characteristics, the processor further programmed to download the consumer generated data sets into the consumer generated database (see column 13, lines 28-30), receive controlled information from marketers, the processor further programmed to download marketer generated data into the marketer database (see

Art Unit: 3623

column 16, lines 26-29), comparing the marketer generated data set to each consumer generated data set, and if the marketer generated data is identified as matching one or more of the individual characteristics of the consumer generated data sets, designating the marketer generated data set to be communicated to the consumer (see column 16, lines 30-35), the processor also programmed to receive feedback from the anonymous consumers regarding the marketer generated data, the system configured to provide compensation to the anonymous consumers for the feedback (feedback stored by servers 106 and compensation routed through consumer computer 104). Goldhaber et al do not disclose refusing a name, an address, a telephone number, and a social security number of the consumer, and the database having an inability to accept contact information. Kepecs discloses distributing and redeeming promotions wherein no consumer identification is maintained (see column 2, lines 50-52). The lowest level of identification in Kepecs is simply a unique customer key with no other identification data (see column 6, lines 51-53), wherein the consumer is compensated via a discount or credit (see column 5, lines 41-45), identified via the key (see column 5, lines 55-57). Both Goldhaber and Kepecs are concerned with an effective method of marketing products to potential consumers, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include maintaining the anonymity of the individual through an inability to accept contact information in the profile in the Goldhaber et al method, as seen in Kepecs, thus providing complete

privacy for the individual, thereby increasing the number of consumers that would otherwise be reluctant to use a method which requires identifying information.

As per claim 23, Goldhaber et al disclose the processor programmed to communicate designated marketer generated data to the consumer if the consumer chooses to view the data (see column 14, lines 53-60).

As per claim 24, Goldhaber et al disclose the processor programmed to communicate the anonymous consumer generated feedback of the designated marketer generated data to the marketer (see column 17, lines 4-9).

As per claim 25, Goldhaber et al disclose the processor further programmed to prevent the marketers from accessing the consumer-generated data sets (see column 14, lines 18-20).

As per claim 26, Goldhaber et al disclose the processor further programmed to accept consumer generated data sets from the consumer if a correct password is received (see column 16, lines 58-63).

As per claim 28, Goldhaber et al disclose the electronic data communications network comprising the Internet (see column 9, lines 33-35).

Response to Arguments

7. In the Remarks, Applicant argues, with respect to the independent claims 1, 8, 16, and 22, that neither Goldhaber et al or Dedrick disclose compensating the consumer while maintaining anonymity, through the inability to accept contact information in the profile. The Examiner submits that Kepecs indeed discloses an

inability to accept contact information in its lowest level of identification, as seen in the above rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-O'Flaherty et al (USPN 6253203) disclose storing and retrieving data in a database implementing privacy control.

-Solomon et al (USPN 4847890) disclose establishing telephone communications between subscribers and callers.

-Walker et al (USPN 5884272) disclose establishing anonymous communications.

-Gabber et al (USPN 5961593) disclose a user able to browse server sites anonymously via a proxy system.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (703) 305-1867. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-

Art Unit: 3623

7687 for regular communications and After Final communications, and (703) 746-7305 for informal/draft communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



adb
February 12, 2003



TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600